



**US Army Corps  
of Engineers**  
Louisville District

# Public Notice

Public Notice No.  
200400657

Effective Date:  
1 Feb 06

Expiration Date:  
31 Jan 11

Please address all comments and inquiries to:  
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## NOTICE ANNOUNCING RE-ISSUANCE OF REGIONAL GENERAL PERMIT NO. 32

This notice announces the re-issuance of a Regional General Permit (RGP) by the Louisville District U.S. Army Corps of Engineers in accordance with Title 33 CFR 325.5(b)(1), as published in the Federal Register, Volume 51, No. 219, pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

**COVERAGE AREA:** The Ohio River, within the Commonwealth of Kentucky, from its confluence with the Mississippi River to Foster, Kentucky (Mile 438.0)

**TYPE OF ACTIVITY:** Commercial sand and gravel dredging operations, including associated fleeting.

**SCOPE OF WORK:** The extraction of sand and gravel from the bed of the Ohio River, within the Commonwealth of Kentucky.

**RESTRICTION:** See Conditions "a" through "l" of the attached sheet titled "SPECIAL CONDITIONS FOR COMMERCIAL SAND AND GRAVEL DREDGING IN THE OHIO RIVER," for specific restrictions. The work authorized by this General Permit would also be subject to the attached General Conditions.

### IMPLEMENTATION PROCEDURES:

- A. The District will review all applications for project compliance with the terms, Special and General Conditions identified in this document. Any individual project that fails to comply with all conditions can not be authorized under this RGP.
- B. The District will respond in writing to all requests within 45 days. However, any work conducted under the RGP shall comply with all RGP General and Special Conditions.
- C. The District may determine that the RGP is not appropriate for a particular request and require an individual Department of the Army (DA) permit review.

**NOTIFICATION REQUIREMENTS:** Notification would be required for each dredge site on the Ohio River under this General Permit. Sites that have not been dredged in the past five years would require a mussel survey prior to submitting a request. An authorization number would be assigned for the permittee's use in compliance with Special Condition "f."

**EXPIRATION DATE:** The General Permit would be in effect for a period of

five years. At the end of the five-year period, an evaluation of the permit would again be made and, at that time, it would be decided whether or not this General Permit should be renewed. The District Engineer may, at any time during this five-year period, alter, modify or revoke this General Permit if he deems such action to be in the public interest.

"SPECIAL CONDITIONS FOR COMMERCIAL SAND AND GRAVEL  
DREDGING IN THE OHIO RIVER"

a. That no dredging shall be allowed on the Illinois side of the Channel from Mile 934.0 to Mile 936.3, between April 15 and June 15, due to paddlefish spawning.

b. That, irrespective of pool stage, the permittee shall not dredge:

(1) Within 150 feet of the shoreline. 1/

(2) Within a distance of the shoreline equal to three times the dredge depth when the depth exceeds 50 feet.

(3) In an area less than 5 feet deep.

(4) In an area less than 9 feet deep if within 1,000 feet of the shoreline.

c. That the permittee shall not dredge closer than 1,500 feet upstream of any known mussel bed, nor closer than 500 feet to the side, nor within 500 feet downstream of such a bed; or in designated sensitive areas. See the attached tables titled "EXCLUDED AREAS."

d. That the permittee shall, on encountering uncharted mussel beds, cease all dredging in the subject area and notify the Louisville District Engineer of such location.

e. That the permittee shall neither dredge nor has any attendant equipment or appurtenances such as anchors or barges within:

(1) 300 feet of the centerline of the Federally maintained navigation channel as defined as the sailing line in the current Navigation Chart Book. Further, in buoyed areas, the dredge and attendant equipment must stay a minimum of 75 feet outside the buoy line.

(2) 300 feet of a ferry crossing.

(3) 2,000 feet of any lock or dam.

(4) 1,500 feet of any Federal Emergency Mooring Buoy.

1/ Shoreline as used in this General Permit means the water's edge at normal pool. This applies to the riverbanks and islands. An island, for the purpose of this General Permit, is an area surrounded by water at normal pool and greater than 1 acre in size.

(5) 1,000 feet of any municipal or private water intake without prior written consent of the District Engineer. (For the most part, consent will be given if signed agreements with the intake operator are submitted.)

(6) 500 feet of any submarine pipeline, submarine cable crossing, public or commercial marinas and boat ramps, private docks, bridges, navigation buoys, fleeting areas (designated in the Navigation Chart Book), cells, loading or unloading terminals, or other structures without prior written consent of the District Engineer.

(7) 1,000 feet of the shoreline of an island with less than 5 foot depth.

f. That the permittee shall display, on both sides and on top of the dredge, the assigned authorization number in characters at least 12 inches high and in colors that clearly contrast with their background.

g. That should the District Engineer become aware of any particular fish and wildlife resource areas experiencing substantial adverse impacts from dredging operations, the District Engineer reserves the right to impose any additional restrictions or eliminate specific areas from dredging permits entirely in order to preserve the integrity of these resource areas.

h. That, should the District Engineer become aware of any areas experiencing critical caving bank problems, the District Engineer reserves the right to impose any additional restrictions, or eliminate specific areas from dredging permits entirely in order to preserve the integrity of these areas.

i. That the authorization to perform commercial dredging under this permit, unless specifically extended, shall expire on 31 December 2010.

j. That except for fleeting areas which have been authorized by a site-specific Department of the Army permit, this activity is subject to the following:

(1) No more than two fleeting sites allowed per dredge. The maximum authorized fleet size shall not exceed 12 barges per fleeting site with a maximum 4-wide configuration.

(2) The securing devices shall either be deadmen constructed above the Ordinary High Water elevation or Danforth Anchors or equivalent. **(THE USE OF TREES AS MOORING DEVICES IS PROHIBITED).**

(3) That the fleet shall be composed of only sand and gravel barges (empty or loaded) used in connection with the dredging operation.

(4) That all cables and floats shall be removed from the securing devices when the dredge activity moves to another location requiring the use of a different fleeting area.

(5) That for each operating dredge, not more than one fleeting area established under this General Permit may be used at any one time.

k. Should any barge or barges become inoperable, they must be removed from the river within 72 hours.

l. That nothing in this permit relieves the permittee of the responsibility to obtain legal consent of the property owner for the temporary or permanent installation or use of mooring structures or devices.

EXCLUDED AREAS  
 MARKLAND POOL  
 MILE 438.0 - 531.5

Left Side of Channel  
 (Kentucky Shore)

Right Side of Channel  
 (Indiana - Ohio Shore)

From	To	From	To
444.4	445.2	443.1	447.5
450.7	452.9		
460.7	462.5	449.3	479.6
468.0	478.3		
		482.3	484.1
		490.5	497.5
499.0	500.0		
		503.1	504.0
		505.5	506.4
516.0	517.0		
521.6	523.0	517.9	527.5
529.0	531.5		
		530.2	531.5

The excluded areas include mussel bed locations per June 30, 1995, Survey of Mussel Beds in the Lower Ohio River (ORM 438.1 to 981.0).

The excluded area for any reach listed in the table is the portion of the channel from the shore to the sailing line and between the referenced mile points.

SUBMARINE CROSSINGS

461.70 - 462.00  
 462.83  
 465.79  
 466.50 - 466.60  
 471.00 - 471.40  
 473.90  
 477.15  
 478.30  
 480.94  
 491.74  
 492.28  
 495.60 - 495.66  
 503.17  
 509.70

EXCLUDED AREAS  
McALPINE POOL  
MILE 531.5 - 606.0

Left Side of Channel  
(Kentucky Shore)

Right Side of Channel  
(Indiana Shore)

From	To
522.1	522.8
531.5	532.9
533.8	534.5
541.5	542.6
544.8	546.7
550.8	556.3

From	To
526.0	526.6
531.5	532.9
537.4	540.6
542.8	543.6
549.3	562.7

571.4	572.1
580.6	582.9
589.6	606.0

581.8	583.9
594.0	606.0

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SUBMARINE CROSSINGS

544.60  
545.25 - 545.51  
549.16 - 549.60  
557.06  
558.00  
569.36 - 569.43  
594.10

EXCLUDED AREAS  
 CANNELTON POOL  
 MILE 606.0 - 720.8

Left Side of Channel  
 (Kentucky Shore)

Right Side of Channel  
 (Indiana Shore)

From	To	From	To
606.0	608.3	606.0	610.5
		613.2	617.5
		625.4	627.8
635.1	635.9		
642.5	644.2		
		646.6	648.0
		649.7	651.6
652.0	653.0		
		655.9	658.6
		662.5	665.1
666.7	667.6		
670.0	670.7		
		674.8	675.4
676.2	677.3		
		677.8	680.0
687.3	688.5		
690.0	698.0	690.5	692.3
700.0	701.5		
		702.3	703.6
707.0	708.0		
710.7	712.7	711.3	712.3
		713.5	714.3
719.5	720.8	716.8	720.8

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SUBMARINE CROSSINGS

608.15  
 614.05  
 620.49 - 620.60  
 641.47  
 690.50

EXCLUDED AREAS  
NEWBURGH POOL  
MILE 720.8 - 776.0

Left Side of Channel  
(Kentucky Shore)

From	To
720.8	722.4
724.7	726.8
738.6	741.2
748.6	749.9
753.2	758.4

Right Side of Channel  
(Indiana Shore)

From	To
720.8	726.4
730.0	735.5
741.8	747.4
752.5	754.6
759.3	764.6
769.3	771.0
772.4	773.0

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SUBMARINE CROSSINGS

723.77 - 723.84  
724.47 - 724.53  
743.34 - 743.37  
754.45 - 754.60  
754.90  
763.92 - 764.03



EXCLUDED AREAS  
 UNIONTOWN POOL  
 MILE 776.0 - 845.9

Left Side of Channel  
 (Kentucky Shore)

Right Side of Channel  
 (Indiana Shore)

From	To	From	To
776.0	777.5	776.0	777.5
783.1	787.0	783.0	785.1
788.0	791.0		
800.5	809.2	792.3	802.5
		812.5	815.1
815.4	816.2		
819.0	823.1	820.4	823.1
		825.0	827.0
828.0	845.9	828.0	831.6
		839.0	845.9

The excluded areas include mussel bed locations per June 30, 1995, Survey of Mussel Beds in the Lower Ohio River (ORM 438.1 to 981.0).

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SUBMARINE CROSSINGS

779.15  
 784.95 - 785.15  
 785.82  
 786.68 - 786.84  
 803.66  
 820.40  
 821.00 - 821.20  
 821.70  
 823.00  
 829.85

EXCLUDED AREAS  
 SMITHLAND POOL & LOWER RIVER  
 MILE 845.9 - 981.0

Left Side of Channel  
 (Kentucky Shore)

Right Side of Channel  
 (Indiana - Illinois Shore)

From	To	From	To
845.9	847.4	845.9	850.5
855.9	856.0		
860.0	861.0	854.0	861.6
		867.0	872.0
882.0	884.0	877.1	882.6
		888.0	892.3
892.7	895.0		
		895.5	903.0
903.5	905.0		
907.0	911.0	909.3	910.5
912.0	915.0	912.0	915.0
917.2	924.5*	917.2	924.0
		927.0	930.5
931.5	935.5**	932.5	934.5
936.3	940.1		
		936.3	949.5
943.9	950.0		
956.0	975.0	956.0	975.0
		980.3	981.0

\* Includes the Cumberland River

\*\* Includes the Tennessee River

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SUBMARINE CROSSINGS

895.57  
 924.80 - 924.90  
 936.50 - 937.45  
 952.50 - 952.93  
 954.27  
 979.01

GENERAL CONDITIONS

COMMERCIAL SAND AND GRAVEL DREDGING

a. That all activities authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically authorized herein or by other Department of the Army Permits shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension, or revocation of this authorization, in whole or in part, as set forth more specifically in 33 CFR Part 325.7.

b. That the permittee agrees to make every reasonable effort to prosecute the work authorized herein in a manner so as to minimize any adverse impact of the work on fish, wildlife, and natural environmental values.

c. That the permittee agrees to prosecute the work authorized herein in a manner so as to minimize any degradation of water quality.

d. That the permittee shall allow the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

e. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; nor does it obviate any requirement to pay a royalty or other fee to the property owner.

f. That this permit does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein. The authorization is void if any Federal, State, or local assent (including zoning) required by law is denied.

g. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injuries to the work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

h. That in acknowledging a site-specific proposal authorized by this permit, the Government has relied on the information and data that the permittee has provided in connection with his authorization. If, subsequent to the acknowledgement of a site-specific authorization, such information and data prove to be false, incomplete, or inaccurate, this authorization may be modified, suspended, or revoked, in whole in part, and/or the Government may, in addition, institute appropriate legal proceedings.

i. That any modification, suspension, or revocation of this permit or a site-specific authorization shall not be the basis for any claim for damages against the United States.

j. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to an activity authorized by this permit.

k. That if the display of lights and signals on the dredge and attendant equipment is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

l. That if the recording of this is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this authorization with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

m. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

n. That a site specific authorization may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this authorization in writing, agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interest authorized herein by the conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this authorization shall be recorded along with the deed with the Register of Deed or other appropriate official.

o. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.